

IC 32-25.5

ARTICLE 25.5. HOMEOWNERS ASSOCIATIONS

IC 32-25.5-1

Chapter 1. Applicability

IC 32-25.5-1-1

Applicability

Sec. 1. (a) This article applies to the following:

(1) A homeowners association established after June 30, 2009, that is authorized to impose mandatory dues on the homeowners association's members.

(2) A homeowners association established before July 1, 2009:

(A) if a majority of the members of the homeowners association elect to be governed by this article; or

(B) if the number of members required by the homeowners association's governing documents elect to be governed by this article if a different number of members other than the number established in clause (A) is required by the governing documents.

(b) The following apply to all homeowners associations:

(1) IC 32-25.5-3-3(g) through IC 32-25.5-3-3(m).

(2) IC 32-25.5-3-9.

(3) IC 32-25.5-3-10.

(4) IC 32-25.5-4.

(5) IC 32-25.5-5.

As added by P.L.167-2009, SEC.2. Amended by P.L.49-2011, SEC.1; P.L.231-2013, SEC.10; P.L.141-2015, SEC.6; P.L.148-2015, SEC.17.

IC 32-25.5-2

Chapter 2. Definitions

IC 32-25.5-2-1

Applicability

Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.167-2009, SEC.2.

IC 32-25.5-2-2

"Board"

Sec. 2. "Board" refers to the board of directors of a homeowners association.

As added by P.L.167-2009, SEC.2.

IC 32-25.5-2-3

"Governing documents"

Sec. 3. "Governing documents" includes the following:

- (1) The articles of incorporation and bylaws of a homeowners association and all adopted amendments to the articles of incorporation and bylaws.
- (2) Any applicable covenants filed with the office of the county recorder of the applicable county recorder, whether contained in a declaration of covenants, contained in conditions and restrictions (or similarly titled document), or contained within a plat.

As added by P.L.167-2009, SEC.2. Amended by P.L.141-2015, SEC.7.

IC 32-25.5-2-4

"Homeowners association"

Sec. 4. "Homeowners association" means a corporation or another entity that:

- (1) is organized and operated exclusively for the benefit of two
- (2) or more persons who each own a dwelling in fee simple;
- (2) acts, in accordance with the articles, bylaws, or other documents governing the corporation or entity, to:
 - (A) acquire, transfer, manage, repair, maintain, or engage in construction on or in the land and improvements on the land related to the use of the dwellings owned by the members of the corporation or entity;
 - (B) purchase insurance to cover a casualty or an activity on or in the land and improvements on the land;
 - (C) engage in an activity incidental to an activity described in clause (A) or (B); or
 - (D) engage in more than one (1) of the activities described in clauses (A) through (C); and
- (3) may be governed by a board that serves the purpose of setting policy and controlling or otherwise overseeing the

activities or functional responsibilities of the corporation or entity.

As added by P.L.167-2009, SEC.2.

IC 32-25.5-2-5

"Subdivision"

Sec. 5. "Subdivision" means the division of a parcel of land into lots, parcels, tracts, units, or interests in the manner defined and prescribed by a subdivision control ordinance adopted by a legislative body under IC 36-7-4.

As added by P.L.167-2009, SEC.2.

IC 32-25.5-3

Chapter 3. Homeowners Associations

IC 32-25.5-3-1

Roster of members; member addresses

Sec. 1. (a) A homeowners association shall maintain:

- (1) a current roster of all members of the association; and
- (2) the mailing address and legal description for each member of the association.

(b) The homeowners association shall also maintain any electronic mail addresses or facsimile (fax) numbers of those members who have consented to receive notice by electronic mail or facsimile (fax). Electronic mail addresses and facsimile (fax) numbers provided by a member to receive notice by electronic mail or facsimile (fax) shall be removed from the association's records when the member revokes consent to receive notice by electronic mail or facsimile (fax). However, the association is not liable for an erroneous disclosure of an electronic mail address or a facsimile (fax) number for receiving notices.

(c) The mailing addresses and legal descriptions maintained by a homeowners association under subsection (a):

- (1) shall be made available to a member of the homeowners association upon request;
- (2) may be used by a member of the homeowners association only for a purpose related to the operation of the homeowners association; and
- (3) may not be used by a member of the homeowners association for personal reasons.

(d) Except as provided in subsection (c), a homeowners association may not sell, exchange, or otherwise transfer information maintained by the homeowners association under this section to any person.

As added by P.L.167-2009, SEC.2.

IC 32-25.5-3-2

Special meetings

Sec. 2. (a) In addition to any other meeting held by a board, a board shall hold a special meeting of the members of a homeowners association if at least ten percent (10%) of the members of the homeowners association submit to the board at least one (1) written demand for the special meeting that:

- (1) describes the purpose for which the meeting is to be held; and
- (2) is signed by the members requesting the special meeting.

(b) If a board does not send out a notice of the date, time, and place for a special meeting not more than thirty (30) days after the date the board receives a valid written demand for the special meeting under subsection (a), a member of the homeowners association who

signed the written demand may:

- (1) set the date, time, and place for the special meeting; and
- (2) send out the notice for the special meeting to the other members.

As added by P.L.167-2009, SEC.2. Amended by P.L.1-2010, SEC.128.

IC 32-25.5-3-3

Annual budget; budget meeting; budget approval; records available to members; copying records; record retention

Sec. 3. (a) A homeowners association shall prepare an annual budget.

(b) The annual budget must reflect:

- (1) the estimated revenues and expenses for the budget year; and
- (2) the estimated surplus or deficit as of the end of the current budget year.

(c) The homeowners association shall provide each member of the homeowners association with:

(1) a:

- (A) copy of the proposed annual budget; or
- (B) written notice that a copy of the proposed annual budget is available upon request at no charge to the member; and
- (2) a written notice of the amount of any increase or decrease in a regular annual assessment paid by the members that would occur if the proposed annual budget is approved;

before the homeowners association meeting held under subsection (d).

(d) Subject to subsection (f), a homeowners association budget must be approved at a meeting of the homeowners association members by a majority of the members of the homeowners association in attendance at a meeting called and conducted in accordance with the requirements of the homeowners association's governing documents.

(e) For purposes of this section, a member of a homeowners association is considered to be in attendance at a meeting if the member attends:

- (1) in person;
- (2) by proxy; or
- (3) by any other means allowed under:
 - (A) state law; or
 - (B) the governing documents of the homeowners association.

(f) If the number of members of the homeowners association in attendance at a meeting held under subsection (d) does not constitute a quorum as defined in the governing documents of the homeowners association, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred percent (100%) of the amount of the last approved homeowners association annual budget. However, the board may adopt an annual budget for the homeowners association

for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget if the governing documents of the homeowners association allow the board to adopt an annual budget under this subsection for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget.

(g) Subject to subsection (k):

(1) the financial records, including all contracts, invoices, bills, receipts, and bank records, of a homeowners association must be available for inspection by each member of the homeowners association upon written request; and

(2) the minutes of meetings of the homeowners association board, including the annual meeting, must be available to a member of the homeowners association for inspection upon the homeowners association member's request, which may be submitted:

(A) in person;

(B) in writing; or

(C) by electronic mail.

A written request for inspection must identify with reasonable particularity the information being requested. A member's ability to inspect records under this section shall not be unreasonably denied or conditioned upon provision of an appropriate purpose for the request. The homeowners association may charge a reasonable fee for the copying of a record requested under this subsection if the homeowners association member requests a written copy of the record.

(h) Subject to subsections (j) and (k), if there is a dispute between a homeowner and a homeowners association, the officers of the homeowners association must make all communications concerning the dispute available to the homeowner.

(i) Subject to subsections (j) and (k), the following apply:

(1) A homeowners association shall make all communications and information concerning a lot available to the owner of the lot or a home on the lot.

(2) If a homeowners association initiates communication with any member about another member's lot, the homeowners association must give a copy of that communication to the other member whose lot is the subject of the communication.

(j) A homeowners association is not required to make:

(1) communications between the homeowners association and the legal counsel of the homeowners association; and

(2) other communications or attorney work product prepared in anticipation of litigation;

available to the owner of a lot or home.

(k) A homeowners association is not required to make available to a member for inspection any of the following:

(1) Unexecuted contracts.

- (2) Records regarding contract negotiations.
- (3) Information regarding an individual member's association account to a person who is not a named party on the account.
- (4) Any information that is prohibited from release under state or federal law.
- (5) Any records that were created more than two (2) years before the request.

Except as otherwise provided in this article (including subsection (j) and this subsection), other applicable law, or the governing documents of the homeowners association, a homeowners association is not required to retain a record of a written or electronic communication for any specific period of time. However, a homeowners association or a member of the board of a homeowners association shall retain for at least two (2) years after receipt, and during that period shall make available to a member of the homeowners association at the member's request, any written or electronic communication received by the homeowners association or board member that relates to a financial transaction of the homeowners association and that is not otherwise excepted from disclosure under this article or other applicable law.

(l) Nothing in this chapter:

- (1) abrogates or eliminates provisions in homeowners association agreements that permit or require additional disclosure or inspection rights not required by this chapter; or
- (2) prevents a homeowners association from agreeing to make disclosures or to provide inspection rights not required by this chapter.

(m) A homeowners association may not charge a fee for the first hour required to search for a record in response to a written request submitted under this chapter. A homeowners association may charge a search fee for any time that exceeds one (1) hour. The following provisions apply if a homeowners association charges a search fee:

- (1) The homeowners association shall charge an hourly fee that does not exceed thirty-five dollars (\$35) per hour.
- (2) The homeowners association may charge the fee only for time that the person making the search actually spends in searching for the record.
- (3) The homeowners association shall prorate the fee to reflect any search time of less than one (1) hour.
- (4) The total amount of the fee charged by the homeowners association for a search may not exceed two hundred dollars (\$200).

As added by P.L.167-2009, SEC.2. Amended by P.L.231-2013, SEC.11; P.L.141-2015, SEC.8.

IC 32-25.5-3-4

Approval of certain contracts; meeting; vote

Sec. 4. (a) This section does not apply to a contract entered into by a board that would resolve, settle, or otherwise satisfy an act of

enforcement against a homeowners association for violating a state or local law.

(b) A board may not enter into any contract that would result in a new assessment or the increase in an existing assessment payable by the affected members of the homeowners association in the amount of more than five hundred dollars (\$500) per year for each affected member of the homeowners association unless:

(1) the board holds at least two (2) homeowners association meetings concerning the contract; and

(2) the contract is approved by the affirmative vote of at least two-thirds (2/3) of the affected members of the homeowners association.

(c) A board shall give notice of the first homeowners association meeting held under subsection (b):

(1) to each member of the homeowners association; and

(2) at least seven (7) calendar days before the date the meeting occurs.

As added by P.L.167-2009, SEC.2.

IC 32-25.5-3-5

Borrowing money; approval by members

Sec. 5. (a) This section does not apply to money borrowed by a homeowners association that is needed to:

(1) resolve, settle, or otherwise satisfy an act of enforcement against the homeowners association for violating a state or local law; or

(2) address an emergency that affects the public health, safety, or welfare.

(b) A homeowners association may not borrow money during any calendar year on behalf of the homeowners association in an amount that exceeds the greater of:

(1) five thousand dollars (\$5,000) during any calendar year; or

(2) if the homeowners association operated under an annual budget in the previous calendar year, an amount equal to at least ten percent (10%) of the previous annual budget of the homeowners association;

unless borrowing the money is approved by the affirmative vote of a majority of the members of the homeowners association voting under this section.

(c) A person who owns a lot, parcel, tract, unit, or interest in land in a subdivision may cast one (1) vote under this section for each lot, parcel, tract, unit, or interest in land in the subdivision that is owned by the person unless the governing documents provide for a different voting procedure.

(d) A vote held under this section must be conducted by paper ballot.

(e) A homeowners association shall distribute paper ballots to persons eligible to vote under this section at least thirty (30) days before the date the votes are to be opened and counted.

(f) Votes cast under this section shall be opened and counted at a public meeting held by the homeowners association.

As added by P.L.167-2009, SEC.2.

IC 32-25.5-3-6

Repealed

(As added by P.L.167-2009, SEC.2. Repealed by P.L.141-2015, SEC.9.)

IC 32-25.5-3-7

Member voting rights

Sec. 7. A homeowners association may not suspend the voting rights of a member for nonpayment of any assessments unless:

(1) the governing documents provide for suspension; and

(2) the assessments are delinquent for more than six (6) months.

As added by P.L.167-2009, SEC.2.

IC 32-25.5-3-8

Repealed

(As added by P.L.49-2011, SEC.2. Repealed by P.L.141-2015, SEC.10.)

IC 32-25.5-3-9

Amending governing documents; consents required

Sec. 9. The governing documents must contain a provision allowing the owners to amend the governing documents at any time, from time to time, subject to the following:

(1) The declarant's consent to an amendment may be required if:

(A) the declarant owns one (1) or more units within the subdivision; and

(B) not more than seven (7) years have passed since the original governing documents were first recorded.

(2) The consent of the owners to the amendment has been obtained as evidenced by either of the following:

(A) The vote of the owners at a meeting duly called for the purpose of considering the amendment.

(B) A written instrument signed by the owners.

The governing documents may not require that the consent of more than seventy-five percent (75%) of the owners is required for consent under this subdivision.

(3) The consent of the eligible mortgage holders, as defined in the governing documents. The consent of an eligible mortgage holder must be indicated in a written instrument signed by the mortgage holder. However, a mortgage holder is considered to have consented to a proposed amendment if the mortgage holder does not respond to a written request for consent within thirty (30) days after the mortgage holder receives the request. The governing documents may not require that the consent of more than seventy-five percent (75%) of the eligible mortgage holders

is required for consent under this subdivision.

(4) Notwithstanding subdivisions (1) through (3), the governing documents may require the approval of at least ninety-five percent (95%) of the owners to convey common areas or to dissolve the plan of governance for the homeowners association.

As added by P.L.141-2015, SEC.11.

IC 32-25.5-3-10

Member meeting proxies; requirements; retention

Sec. 10. (a) This section applies to a proxy given by a member of a homeowners association.

(b) A proxy that does not comply with this subsection is void. A proxy must include all the following:

- (1) The name and address of the member giving the proxy.
- (2) The name of the individual empowered to exercise the member's proxy.
- (3) The date on which the proxy is given.
- (4) The date of the meeting for which the proxy is given.
- (5) The member's signature.
- (6) An affirmation under the penalties for perjury that the individual signing the proxy has the authority to grant the proxy to the individual named in the proxy to exercise the member's proxy.

(c) A member may state in a proxy that the proxy is limited in its use to specific matters described in the proxy.

(d) A member may give a proxy for the meeting referred to in subsection (b)(4) and any continuation of that meeting, if the proxy states that it expires on a stated date that may not be more than one hundred eighty (180) days after the date on which the proxy is given.

(e) A member may create and use a proxy form designed by the member if the form complies with the requirements of subsection (b).

(f) A proxy, or a copy of the proxy, that is exercised for any purpose at a meeting must be kept with the records of the meeting.

As added by P.L.141-2015, SEC.12.

IC 32-25.5-4

Chapter 4. Attorney General Actions

IC 32-25.5-4-1

Attorney general's action against association or board member; misappropriation or fraud; proxy violations; budgeting violations

Sec. 1. The attorney general may bring an action against a board of a homeowners association or an individual member of a board of a homeowners association if the attorney general finds that any of the following apply:

- (1) The association's funds have been knowingly or intentionally misappropriated or diverted by a board member.
- (2) A board member has knowingly or intentionally used the board member's position on the board to commit fraud or a criminal act against the association or the association's members.
- (3) A proxy was exercised in violation of IC 32-25.5-3-10.
- (4) A violation of IC 32-25.5-3-3 has occurred.

As added by P.L.141-2015, SEC.13.

IC 32-25.5-4-2

Court remedies; imposition of civil penalties; limitations

Sec. 2. (a) A court in which an action is brought under this chapter may do the following:

- (1) Issue an injunction.
- (2) Order the board member to make restitution to the homeowners association or to a member of the homeowners association.
- (3) Order a board member to be removed from the board.
- (4) Order a board member to reimburse the state for the reasonable costs of the attorney general's investigation and prosecution of the violation.
- (5) Impose a civil penalty on a member of the board of a homeowners association determined by the court to have taken an action described in section 1(1) or 1(2) of this chapter.

(b) A civil penalty imposed under subsection (a)(5) may not exceed five hundred dollars (\$500) for each action described in section 1(1) or 1(2) of this chapter that the board member is determined by the court to have taken. The proceeds of a civil penalty imposed under subsection (a)(5) shall be deposited in the state general fund.

As added by P.L.141-2015, SEC.13.

IC 32-25.5-5

Chapter 5. Grievance Resolution

IC 32-25.5-5-1

Application of chapter to exempt claims

Sec. 1. This chapter does not apply to an exempt claim unless the parties agree that this chapter is applicable to the exempt claim.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-2

"Claim"

Sec. 2. (a) As used in this chapter, "claim" refers to any of the following:

- (1) A claim arising out of or relating to the interpretation, application, or enforcement of the governing documents.
- (2) A claim relating to the rights or duties of the association of co-owners or the board under the governing documents.
- (3) A claim relating to the maintenance of the subdivision.
- (4) Any other claim, grievance, or dispute among the parties involving the subdivision or the homeowners association.

(b) The term does not include an exempt claim.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-3

"Claimant"

Sec. 3. As used in this chapter, "claimant" refers to a party who has a claim against another party.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-4

"Exempt claim"

Sec. 4. As used in this chapter, "exempt claim" refers to any of the following claims or actions:

- (1) A claim by the homeowners association for assessments or dues and any action by the association to collect assessments or dues.
- (2) An action by a party to obtain a temporary restraining order or equivalent emergency equitable relief:
 - (A) to maintain the status quo and preserve the party's ability to enforce the governing documents; or
 - (B) when an emergency condition exists that jeopardizes the health or safety of any of the residents within the community governed by the homeowners association.
- (3) A suit to which an applicable statute of limitations would expire within the notice period. This subdivision does not apply if a party against which the claim is made agrees to toll the statute of limitations as to the claim for the period reasonably necessary to comply with this chapter.

(4) A dispute that is subject to mediation, arbitration, or other alternate dispute resolution under applicable law, contract, warranty agreement, or other instrument.

(5) A claim that is substantively identical to a claim:

(A) that was previously addressed by the parties; or

(B) that was resolved by a judicial determination in favor of one (1) of the parties.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-5

"Legal proceedings"

Sec. 5. As used in this chapter, "legal proceedings" refers to either of the following:

(1) An action maintained in a court.

(2) An administrative proceeding initiated under an applicable law.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-6

"Party"

Sec. 6. As used in this chapter, "party" refers to any of the following:

(1) The homeowners association.

(2) A member of the homeowners association.

(3) The board.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-7

"Respondent"

Sec. 7. As used in this chapter, "respondent" refers to the party against whom a claimant has a claim.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-8

Grievance resolution procedures required

Sec. 8. The governing documents must include grievance resolution procedures that apply to all members of the homeowners association and the board.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-9

Requirements for claimant to begin legal proceedings

Sec. 9. A claimant may not initiate a legal proceeding seeking redress or resolution of a claim until the claimant has complied with the procedures described in this chapter.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-10

Notice of claim; required information

Sec. 10. A claimant must provide notice of the claim to the respondent, stating plainly and concisely the following information:

- (1) The nature of the claim, including the date, time, location, persons involved, and the respondent's role in the claim.
- (2) The basis of the claim, including the provision of the governing documents or other authority out of which the claim arises.
- (3) What the claimant wants the respondent to do or not to do to resolve the claim.
- (4) That the respondent has a right to meet with the claimant, if the respondent makes a written request for a meeting.
- (5) The name and address of the person from whom the respondent must request a meeting under subdivision (4).

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-11

Negotiation meeting; access to subject property

Sec. 11. (a) This section applies if a respondent has requested a meeting under section 10 of this chapter not later than ten (10) business days after the date of the notice of the claim given under section 10 of this chapter.

(b) The claimant and the respondent shall meet in person to resolve the claim by good faith negotiation, at the time and place agreed to by the claimant and the respondent.

(c) During the meeting, the parties must have full access to the property that is the subject of the claim to inspect the property, if appropriate or necessary. If the respondent agrees to take corrective action, the claimant must provide the respondent and the respondent's agents with full access to the property to take and complete corrective action.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-12

Impasse; submission of claim to mediation or binding arbitration; costs of mediator or arbitrator

Sec. 12. (a) The parties are considered to be at an impasse if:

- (1) the respondent does not request a meeting under section 10 of this chapter;
- (2) either party fails to attend a meeting agreed upon under section 11 of this chapter; or
- (3) the parties are unable to settle the claim at a meeting held under section 11 of this chapter.

(b) Either party may, not later than ten (10) days after an impasse is reached, request in writing to the other party that the other party submit the claim to mediation or binding arbitration.

(c) The party making the request under subsection (b) is responsible for the costs of the mediator or arbitrator.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-13

Impasse; beginning legal proceedings

Sec. 13. If an impasse is reached and:

- (1) neither party requests mediation or arbitration; or
- (2) mediation or arbitration does not result in a settlement of the claim;

the claimant may begin legal proceedings.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-14

Settlement of claim through negotiation, mediation, or arbitration; legal proceedings; recovery of costs

Sec. 14. (a) This section applies if a claim is settled through negotiation, mediation, or arbitration.

(b) The settlement of the claim must be documented in a written agreement signed by each of the parties.

(c) If a party fails to abide by the settlement agreement signed under subsection (b), the other party may begin legal proceedings without again complying with this chapter.

(d) If a party who begins legal proceedings under subsection (c) prevails in those legal proceedings, the party is entitled to recover from the other party:

- (1) court costs;
- (2) attorney's fees; and
- (3) all other reasonable costs incurred in enforcing the settlement agreement.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-15

Effect of release or discharge

Sec. 15. A release or discharge of a respondent from liability to the claimant with respect to the claim does not release or discharge the respondent with respect to any other person who is not a party to the claim.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-16

Powers of board

Sec. 16. The board, on behalf of the homeowners association, and without the consent of the members of the homeowners association, may do any of the following:

- (1) Negotiate settlements of claims or legal proceedings under this chapter.
- (2) Execute settlement agreements, waivers, releases of claims, or any other documents resulting from application of this chapter.

As added by P.L.141-2015, SEC.14.

IC 32-25.5-5-17

Costs of each party

Sec. 17. Except as otherwise provided in this chapter, each party shall bear its own costs for application of this chapter, including attorney's fees.

As added by P.L.141-2015, SEC.14.